



# Monthly Bulletin

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## Responding to the Foreclosure Crisis

### Mortgage Servicers Turning to Loan Modifications, Repayment Plans, Deed in Lieu Transactions and Short Sales

Mortgage servicers, faced with record high foreclosure rates are turning to loan modifications, repayment plans, deed-in-lieu transactions and short sales to help remedy the situation, according to data released by the Mortgage Bankers Association ([MBA](#)) and [HOPE NOW](#).

When loans are foreclosed everybody loses—from the investors that hold mortgage-backed securities, to the originators, holders and servicers of mortgages; to the homeowners who cannot afford to make higher mortgage payments when their adjustable-rate mortgage (ARMs) rates reset, to the communities that are blighted by a large number of vacant, foreclosed properties.

Consequently, mortgage servicers are attempting to maintain the cash flow on these loans through more extensive use of borrower assistance; from traditional loan modifications and repayment plans to deed in lieu transactions that allow the borrower to transfer the property to the lender in exchange for a complete extinguishment of the debt and short sale transactions, in which the borrower sells the home to a third party for less than the outstanding mortgage, with forgiveness of the outstanding debt. With deed in lieu and short sales, borrowers are relieved of their loans without having a foreclosure recorded against their credit records.

There are indications that borrower assistance efforts are starting to take hold. According to the HOPE NOW report:

- The industry assisted 370,000 homeowners during the second half of 2007.
- This includes 250,000 formal repayment plans and 120,000 modifications.
- Mortgage servicers were modifying subprime loans during the fourth quarter at triple the rate of the third quarter.
- On an annualized basis, 10.4% of subprime borrowers were helped.
- 39% of delinquent borrowers were assisted in the second half of 2007.

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HOPE NOW reported that in November 2007, it sent out approximately 233,000 letters to at-risk homeowners asking them to call their servicer for assistance. As a result of these letters, more than 16% of borrowers responded by contacting their servicer, far more than the normal response rate of 2-3%:

- 21% of those who received a letter in November improved or maintained their delinquency status by making at least one payment
- 43% of those who responded to a letter by contacting their servicer engaged in active mitigation activity by the end of December and nearly half of these involved modifications.
- None of these borrowers had recently contacted their servicer prior to the HOPE NOW mailing.

According to the MBA survey, the mortgage industry modified an estimated 54,000 loans and established formal repayment plans with another 183,000 borrowers during the third quarter of 2007. By contrast, foreclosure actions were started on approximately 384,000 loans over the same period.

The study reported that there were factors other than rate resets that could not be helped by borrower assistance. These factors included: loss of a job, health issues, divorce, death of one of the income earners in the household or becoming overextended with other consumer debt such as credit cards or car payments. If the borrowers cannot make their current low payments, freezing payments at the pre-rate-reset levels will not help those borrowers.

Three key factors were identified in the study that diminished servicers' abilities to mitigate the impact of the foreclosure crisis through borrower assistance. These included: 1) investors who stop making payments and walk away from their mortgages when home prices fall; 2) borrowers who do not respond to lenders attempts to contact them or who cannot be located and 3) borrowers who default despite a previous loan modification or repayment plan.

According to the study, in California, 57% of all foreclosure starts in the third quarter 2007 met one of the three criteria listed above. 16% of all foreclosure starts during the quarter were on homes not occupied by the owner. In 20%, the borrowers could not be contacted and in 29% the borrower defaulted despite having previously obtained a modification or repayment plan.

Although studies conducted by the Department of Financial Institutions show that relatively few licensees are affected by the subprime and foreclosure crisis, the Department continues to monitor the situation and to direct licensees that originate, hold, sell or service mortgages to comply with regulatory and industry efforts to alleviate its effects on the state.

## **Addressing Real Estate Owned Situations**

The increasing number of foreclosures in California will result in a record number of real estate owned (REO) properties that financial institutions will be forced to address in 2008. The Department of Financial Institutions (DFI) recognizes that the best way to deal with the anticipated large number of REO properties statewide is to do everything possible to get those properties ready for occupancy and use by the consuming public. In an effort to keep our communities growing and to further economic development efforts throughout the state, the DFI encourages its licensees to implement the following strategy for REO properties:

- Attempt to renegotiate or modify mortgage loans to avoid foreclosure whenever possible.
- Place REO property on the market within one month of taking possession.

- Use a licensed real estate agent who is participating as a member of the local multiple listing service, or an equivalent service, and offering cooperating compensation to other licensed real estate agents who are working in that marketplace.
- Maintain all landscaping that is visible from the street and any required utilities in order to assure the property does not become blight to the surrounding community.
- Accept and/or counter any and all written offers within 72 hours of receipt.

Licensees are also encouraged to offer mortgage loans that meet the standards of the Community Reinvestment Act and provide or direct borrowers to credit counseling when warranted.

## **Bank on California: Helping Californians Achieve Financial Mobility**

Gov. Arnold Schwarzenegger announced the launching of the "Bank on California" initiative. In a press release titled, Governor Schwarzenegger to Launch Campaign for More Working Families to Open Bank Accounts - "Bank on California" Helps Californians Achieve Financial Mobility, the Governor stated that California will be the first state in the nation to launch an effort to help working Californians without bank accounts open starter accounts. The new initiative will help more low- and middle-income Californians establish savings, build a credit history, gain access to lower-cost sources of credit and invest for the future.

"Bank on California" will be a collaborative voluntary initiative with the help of financial institutions, city mayors, federal regulatory agencies, and community groups.

## **Personnel Changes in the Banking Program**

### **Richard Schorr Promoted to Financial Institution Manager**

Richard Schorr was promoted to Financial Institution Manager effective December 19, 2007. His primary responsibility will be the oversight of the IT/E-Banking examination and supervisory function of the Banking Program. Richard has a total of 22 years of examination and supervision experience with State and Federal financial institution regulators. He began his career in 1986 at the California Department of Savings and Loan (DSL) as a Savings and Loan Examiner, was promoted to Senior Examiner in 1987 and to Savings and Loan Supervisor in 1988. In 1990 he came to the California State Banking Department (SBD) as a Senior Examiner. In 1995 joined the Federal Reserve Bank of San Francisco (FRB) where he was designated as an Information Technology subject matter expert (SME). After six years at the FRB, he joined the California Department of Financial Institutions (DFI), the successor agency of DSL and the SBD, as a Senior Examiner in 2001.

Mr. Schorr holds a Bachelor of Science degree in Business Administration with an emphasis in accounting from California State University, Northridge and a MBA in finance from West Coast University. In addition, he is a Certified Public Accountant (CPA), Certified Information Systems Auditor (CISA), Certified Internal Auditor (CIA), and a graduate of the DFI Leadership Academy.

He will be headquartered in the DFI's Los Angeles Office and will report to Deputy Commissioner Doug Kirkpatrick.

## **Cathy Nahnsen-Robison Appointed Financial Institution Manager – Assistant Chief Examiner**

Cathy Nahnsen-Robison was appointed Financial Institutions Manager - Assistant Chief Examiner on December 28, 2007. This is a newly created position in the Office of the Chief Examiner and will assist in formulating and/or administering examination, supervisory, support and licensing policies and practices of the Banking Program. Her principal duties will consist of overseeing the use of FIMis, (the department's financial institutions management information system), monitoring application processing, participating in strategic planning, maintaining the examiners manual and examiner bulletin system, managing emerging issues, facilitating internal training workshops, facilitating process improvement and developing and monitoring performance measures.

Ms. Nahnsen-Robison joined the California State Banking Department in 1984 as a Bank Examiner in the Los Angeles Office. She was promoted to Senior Examiner in 1991, to Financial Institutions Supervisor in 1999 and most recently to Financial Institutions Manager for the San Diego/Orange County region on May 16, 2007. Cathy holds a Bachelor of Science degree in Business Administration with an emphasis on management and finance, a Bachelor of Arts degree in psychology, and a Masters degree in Accountancy; all from California State University, Northridge. In addition, she has been an instructor for the Conference of State Bank Supervisors, has passed the CPA exam and holds a CSBS Certified Examinations Manager designation.

She will be headquartered in the DFI's Los Angeles Office.

## **DFI Issues Cease and Desist Warning to Royal Savings & Credit**

A warning to cease and desist from doing business in California without a license from the Commissioner of Financial Institutions was issued to Royal Savings & Credit, 5161 Clayton Road, Concord, California 94521

Royal Savings & Credit is not authorized to transact business in the way or manner of a savings association and is not authorized to transact business under a name which contains any combination of the words "loan" with "savings" (words of similar import) and indicates that the business is the business of a savings association pursuant to Chapter 2 of Division 2 of the California Financial Code. All persons who have communicated with Royal Savings & Credit are asked to contact the Department of Financial Institutions, Legal Division, San Francisco, at (415) 263-8541.

## HELOC Fund Transfer Scam Warning

The DFI has become aware of a sophisticated scheme that has recently resulted in a large number of high-dollar funds transfer losses involving home equity line of credit loans.

Perpetrators are targeting members who have been granted large lines of credit via home equity line of credit (HELOC) loans. The perpetrator sends a fax or email requesting the credit union process a funds/wire transfer. Usually, the transfer requests are received at credit unions with call centers.

The wire requests are for large amounts frequently in excess of \$100,000, and are being sent to different banks in the United States, China and Japan. Often, the wires are being sent to accounts with the words "Title" or "Construction" in the account name.

Fraud has successfully occurred in credit unions that have strong security procedures. In some cases, the staff has followed their credit union's written procedures to include call-backs to a secure telephone number. However, fraudsters have apparently made arrangements, presumably with telephone providers, to have calls forwarded to their phones, thus confounding credit union call-back procedures.

What's making these scams even more difficult to detect is that the credit union's caller ID indicates the call is going to the member's number of record. Additionally, the fraudsters have detailed member information, which is enabling them to answer additional challenge questions from credit union staff.

The following are some loss prevention recommendations:

- Establish a password system for members prior to accepting funds transfer requests by telephone, fax or mail. Further, the credit union should have a written agreement with the member for the use of these passwords. Credit unions are allowed to pass liability to the member for any negligent use of their funds transfer password.
- If there is any doubt as to authenticity of the funds transfer request, credit unions are reminded they do not have to perform a wire transfer.
- Beware of large dollar requests for wire transfers that draw against a HELOC, particularly HELOCs that have large available balances and little previous activity.
- Limit the amount of wire transfer that can be completed by a call center employee. The wire transfer request should be approved by a manager.
- Record conversations during the call-back and compare it to previously recorded conversations.
- Perform an additional verification to the member's work and/or cellular telephone number.
- Additionally, if the credit union has the information, send an email to the member at home and/or work.

## **DFI and OCC Adopt Agreement for Managing Consumer Complaints**

The Department of Financial Institutions (DFI) and Office of the Comptroller of the Currency (OCC) have entered into a memorandum of understanding that provides a mechanism for the sharing of consumer complaint information between the two agencies. Because consumers do not always know which regulatory agency - state or federal - supervises their banks, the memorandum provides procedures to ensure that misdirected complaints are directed to the appropriate agency and allows the agencies to track the status of a referred complaint.

## **President Bush Establishes Advisory Council on Financial Literacy**

President George W. Bush established the [Advisory Council on Financial Literacy](#) by an [executive order](#) signed on January 22, 2008.

The new Council will advise the President and Secretary of the Treasury Henry M. Paulson, Jr., on ways to improve financial education and bring national attention to the need for better financial education for all Americans.

President Bush appointed Don McGrath, Chairman of California's Bank of the West to serve on the Council. DFI also noted that a state banking regulator will serve on the Council with the appointment of David Mancl of Wisconsin's Department of Financial Institutions.

McGrath and Mancl are joined by a diverse group of individuals also appointed to the 19-member Council. Charles Schwab, Chairman and CEO of Charles Schwab, was named chairman of the President's Council, and John Bryant, Founder and Chairman of Operation HOPE, was named vice chairman.

## **DFI to Prepare Credit Union Group Filing for Form 990**

Due to the recent ruling by the Internal Revenue Service to continue using the current version of the Form 990 for the 2007 tax year, the Department of Financial Institutions will prepare a group 990 filing for California state chartered credit unions for that year. Forms asking for certain information for the 2007 tax year will be mailed to your respective credit unions later this year.

## Commercial Bank Activity

### **New Bank**

Pacific Commercial Bank  
1731 Technology Drive, San Jose, Santa Clara County  
Correspondent: James H. Avery  
The Avery Company LLC  
P.O. Box 3009  
San Luis Obispo, CA 93403  
(805) 544-5477  
Filed: 1/17/08

### **Acquisition of Control**

Belvedere SoCal, Belvedere Capital Fund II L.P. and Belvedere Capital Partners II LLC, to acquire control of Spectrum Bank

Filed: 1/4/08  
Approved: 1/28/08  
Effectuated: 1/31/08

Peninsula Bank Holding Company, to acquire control of The Private Bank of the Peninsula

Filed: 1/10/08  
Approved: 1/24/08

Security Business Bancorp, to acquire control of Security Business Bank of San Diego

Approved: 11/6/07

Security Pacific Bancorp, Inc. to acquire control of Pacific Premier Bancorp, Inc. / Pacific Premier Bank

Withdrawn: 1/7/08

### **Merger**

Stockmans Bank, Elk Grove, California, to merge with and into PremierWest Bank, Medford, Oregon

Effectuated: 1/27/08

### **Purchase of Partial Business Unit**

Nara Bank, Los Angeles, California, to acquire the New Jersey branch office of The Provident Bank, Brick Township, New Jersey

Filed: 1/16/08  
Approved: 1/17/08

**Sale of Partial Business Unit**

Bank of the West, San Francisco, to sell a partial business unit to Brooke Savings Bank, Kansas

Filed: 10/11/07

Approved: 11/29/07

Effectuated: 1/19/08

## **Industrial Bank Activity**

**Conversion to State Charter**

Silvergate Bank, La Jolla, to convert to state-chartered commercial bank

Approved: 1/2/08

## **Premium Finance Company Activity**

**New Premium Finance Company**

Coastal Premium Finance Corp.

6046 Cornerstone Court West, City and County of San Diego

Address changed: 11/14/07 from 4201 Long Beach Boulevard, Long Beach, Los Angeles County

Opened: 1/7/08

G&G Premium Finance, Inc.

5210 Lewis Road, Agoura Hills, Los Angeles County

Filed: 1/22/08

## **Trust Company Activity**

**Merger**

The Charles Schwab Trust Company, San Francisco, with and into Charles Schwab Bank, Reno, Nevada

Effectuated: 1/1/08

## **Foreign (Other State) Bank Activity**

**New Facility**

American Enterprise Bank (Facility – Insured Bank)

8775 Sierra College Boulevard, Granite Bay, Placer County

Notified: 1/22/08

Modern Bank, N.A. (Facility – Insured Bank)

9595 Wilshire Blvd., Suite 955, Beverly Hills (Los Angeles County)

Opened: 1/2/08



## Credit Union Activity

### **Field of Membership**

One credit union received approval to add one new field of membership during December 2007.

### **Bylaw Amendment**

One credit union received approval for one bylaw amendment during December 2007.

### **Merger**

California Preferred Credit Union, San Francisco, to merge with and into Redwood Credit Union, Santa Rosa

Filed: 1/29/08

Commerce Federal Credit Union, Commerce, to merge with and into E-Central Credit Union, Pasadena

Approved: 12/10/07

Effected: 1/31/08

## Transmitter of Money Abroad Activity

### **New Transmitter**

Intermex Wire Transfer Corp.

Opened: 1/24/08

**Acquisition of Control**

Coinstar E-Payment Services, Inc., to acquire control of GroupEx Financial Corporation

Approved: 11/8/07

Effected: 1/1/08

## Payment Instrument Activity

**New Payment Instrument**

Fidelity Express

Filed: 11/27/07

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CAROL D. CHESBROUGH

Interim Commissioner of Financial Institutions

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to Financial Code section 258



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